



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

NO PROTEST RECEIVED
Release to Manager, EO Determinations - Cinc

DATE: [REDACTED]

SURNAME [REDACTED]

Date: [REDACTED]

Contact Person: [REDACTED]

Identification Number: [REDACTED]

Contact Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under section 501(c)(3). The basis for our conclusion is set forth below.

You were incorporated in [REDACTED]. Your Articles of Incorporation state that you are organized and operated exclusively for religious and holistic health purposes within the meaning of section 501(c)(3) of the Code.

Your bylaws provide that your primary objectives shall be:

- A) To offer spiritual development services within the meaning of section 501(c)(3) of the Code; and
- B) To offer alternative and complimentary holistic health practices and therapies within the meaning of section 501(c)(3) of the Code.

Your creed is [REDACTED]. You believe that there are many paths and ways to reach wholeness of body, mind, spirit, emotions and psyche. You promote the belief that there is only one source of all goodness and that is [REDACTED]. You also promote learning about the [REDACTED] energy within one another. You believe that holistic health practitioners are professionals and that what they do is worthy of the title minister (see page 3 Response to 2001 Survey). Therefore, you encourage the holistic health practitioners on your staff to apply for a ministerial license through the [REDACTED] Church. Your ministers conduct weddings and memorials.

[REDACTED]

On your Form 1023, Application for Exemption, you state that you are a successor to [REDACTED] Church

In a letter dated [REDACTED] you describe your religious services. You offer a service entitled "[REDACTED]" on Sundays from 10 a.m. to 11:30-11:45 a.m. You state that [REDACTED] is a spiritual catalyst to your other healing programs and services. You have [REDACTED] members on your mailing list. Members are persons who sign up to be on the mailing list by calling in or coming to the [REDACTED]. Not all of your members are active. You state that active members are those who either attend your weekly Sunday service, your weekly presentations, workshops, classes, [REDACTED] or have one-on-one sessions with your many spiritual health practitioners, most of whom are ordained ministers of the [REDACTED] Church. You state that you average ministering to about [REDACTED] people per week.

You also operate a holistic health center. You rent space to holistic health practitioners. These individuals are independent contractors, who pay you rent as well as tithes. Your practitioners charge clients fees for their alternative and complimentary health practices. Practitioners offer chiropractic, iridology, massage, hypnotherapy, intuitive readings, herbology, astrology, reiki, nutritional consultation, spiritual direction services and classes at your center. You also have a bookstore with health related and metaphysical books. The center also has a [REDACTED]. You state that most of your customers are clients who use the alternative therapy services offered by practitioners at your center. You use the funds from the bookstore and art shop to help cover the rental charges of [REDACTED] per month. The bookstore and art shop are operated on the honor system. People put their money and a tag for what they purchased in a red envelop and place it in a basket. Volunteers and practitioners keep the store in order.

You submitted a diagram of the [REDACTED] Center. The downstairs portion of the building has [REDACTED] square feet and includes one sanctuary/classroom that is 22' x 30', four healing rooms, a kitchen, center office and a reception room. The upstairs portion of the building consists of [REDACTED] square feet and includes six healing rooms, a staff office, a bookstore and a 14' x 16' classroom.

In your letter dated [REDACTED] you state that Rev. [REDACTED], your executive director, receives [REDACTED] per month to operate the holistic health center and bookstore. [REDACTED] also owns [REDACTED] where she trains students in massage, [REDACTED] ("laying on of hands" method of healing), meditation, chakra balancing, toning and visualization and other modalities that enhance "whole person development". You state that when students graduate, they may offer their services as a ministry. Several of the graduates from the massage institute now offer their services out of your holistic health center. No more than [REDACTED] students may be trained at the [REDACTED] at any one time. [REDACTED] works about 50 to 60 hours per week at the [REDACTED].

[REDACTED]

center and the massage institute and [REDACTED] private massage clients (about [REDACTED] hours per month for the [REDACTED] Center). [REDACTED] is an ordained minister by the [REDACTED] Church and is a regular presenter at your [REDACTED] services. In a letter dated [REDACTED] you state that her only association with the [REDACTED] however, is that [REDACTED] embraces their philosophy that "[REDACTED]"

Prior to forming a board of directors, five or six of your staff members would attend an "[REDACTED]" to plan the agenda for the monthly staff meeting. The monthly staff meeting would usually be attended by [REDACTED] to [REDACTED] staff members. These meetings were also open to your members.

The minutes from your staff meetings provide interesting insight into the operation of your organization. For example, according to the minutes for the staff meeting on [REDACTED] meeting began with meditation, but the business portion was about promoting business at the center during the slow period during the summer. The group discussed sending out a financial appeal letter, conducting a health and psychic fair, conducting a rummage sale, and a firewalk. As part of the agenda on [REDACTED] the staff discussed participation in a booth at the [REDACTED] Center to promote staff members' businesses and the Center.

As part of the agenda for the [REDACTED] the staff discussed the new structure. Under the new structure, the Office & Financial Coordinator will, in addition to bookkeeping duties, keep track of [REDACTED] and [REDACTED] charges/payments and pay practitioners what they are owed by [REDACTED] and [REDACTED]

In the [REDACTED] minutes, one of the items of business was promoting the practitioners' businesses through [REDACTED] the free newsletter. The newsletter contains information about spiritual/alternative health classes and workshops offered at [REDACTED] Center. It also contains articles written by practitioners at the center and advertisements from holistic health practitioners selling their services. According to the policies and procedures statement signed by your staff and affiliates, you will list the practitioner's name and a short description of his/her services listed in [REDACTED]. Each permanent staff member also receives a free listing and class description in the newsletter. Each practitioner also receives advertising of his/her name, address and phone number. In the [REDACTED] issue, only [REDACTED] pages of the [REDACTED] page newsletter were devoted to [REDACTED] about [REDACTED] your religious subdivision. Only [REDACTED] out of [REDACTED] pages in the Spring [REDACTED] and Fall [REDACTED] issues is devoted to information about [REDACTED]. In your response to the Service's letter dated [REDACTED] you state that your publishing activities help you bring people to your center who support the programs and services the practitioners who pay rent offer so that you can pay for your space and spread your message. You do not pay

[REDACTED]

practitioners for their articles; rather you charge the practitioners to place articles in your publication: [REDACTED] for a half page and [REDACTED] for a full page. You also charge advertising fees. These fees enable you to publicize your [REDACTED] Services and biweekly healing clinic in which your practitioners volunteer their services to the community. A donation is requested, but not required. You state that your clinics are open to all.

The staff also discussed the center as [REDACTED]. At the meeting on [REDACTED] the staff discussed ways to achieve success. A topic of new business at the staff meeting on [REDACTED] was the new rent policy which states that all practitioners will receive unlimited usage of the Center for the fee of [REDACTED] month. Space for classes and workshops is not included in this fee but will be charged at [REDACTED]. The minutes also add that practitioners who leave the Center will pay more for office space. Practitioners are urged, "Please trust that as you put more energy and focus" into your business, the clients will come." In the staff meeting agenda for [REDACTED] you stated that you are seeking practitioners who are focused on success.

On your website, you featured the services offered at your Center. You also told visitors to your website to "call today" or "call for an appointment" and gave the addresses and telephone numbers of the practitioners at the center. You stated in your letter dated [REDACTED] that you are in the process of revising your website.

You have fundraisers to support the [REDACTED] Center. You plan to raise funds by conducting raffles, rummage sales and auctions. In your letter of [REDACTED], you state that all of your staff volunteer to help run fundraising events. On Form 1023 you also state that you offer a healing clinic by donation on Monday evenings. You have treated over [REDACTED] people by donation over the past two years. In addition, you conduct health fairs quarterly to allow the community to try the services of the practitioners in your center. The practitioners have donated over [REDACTED] hours of service, which you auction in order to meet your expenses. You also mail an annual letter appealing for funds. In your annual appeal letter for [REDACTED] you indicate that the funds that you raised from donations, the [REDACTED] Clinic, your Sunday [REDACTED] program [REDACTED] and [REDACTED] rummage sales and health fairs were used to help pay the rent for the center [REDACTED] phone services [REDACTED], office supplies, paper products, cleaning supplies and janitorial service [REDACTED] provided by [REDACTED].

You also raise funds through tithes and encourage all of your members to pay tithes. Your director, [REDACTED] pays tithes to you as well as an amount for rent based on usage of and enrollment in [REDACTED] Institute (see letter dated [REDACTED]).

[REDACTED]

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated "exclusively" for religious, charitable, educational, or other specified exempt purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to qualify for exemption under section 501(c)(3) of the code, an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational or operational test will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Thus, in construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau of Washington, D.C. Inc. v. United States, 326 US 279 (1945); 1945 CB 375, the Supreme Court of the United States stated that "the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes."

Section 1.501(a)-1(c) of the regulations provides that private shareholders or individuals are defined as persons having a personal and private interest in the activities of an organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized exclusively for any of the purposes specified in section 501(c)(3) unless it serves public rather than private interests. Thus, to meet the requirement of subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly, by such private interests.

Section 513(d) of the Code defines the term "unrelated trade or business" as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational or other purpose or function constituting the basis for its exemption under section 501(c)(3).

Section 1.501(c)(3)-1(e)(1) of the regulations provides that an organization may meet the requirements of section 501(c)(3) of the Code although it operates a trade or

business as a substantial part of its activities, if the operations of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513.

Rev. Rul. 77-111, 1977-1 CB 144, held that two organizations formed to promote economic development in deteriorated areas did not qualify for exemption under section 501(c)(3). In Situation 1, the organization's purpose is to increase business patronage in a deteriorated area mainly inhabited by minority groups. In Situation 2, the organization's purpose is to revive retail sales in an area suffering from continued economic decline.

The revenue ruling holds that although the organizations' activities might contribute to achieving 501(c)(3) purposes, their overall thrust was to promote business as an end in itself rather than to accomplish exclusively 501(c)(3) purposes.

In est of Hawaii v. Commissioner, 71 T.C. 1067 (1979), aff'd without opinion, 647 F.2d 170 (9th Cir. 1981), the Tax Court concluded that an organization created to disseminate educational programs, the rights to which were owned by for-profit corporations, furthered the commercial, private purposes of the for-profit entities and did not qualify for exemption under section 501(c)(3) of the Code.

In Better Business Bureau v. United States, 326 U.S. 279 (1945), the Supreme Court noted that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption under section 501(c)(3) of the Code, regardless of the number or importance of statutorily exempt purposes.

To be described in section 501(c)(3) of the Code, an organization must be organized and operated exclusively for exempt purposes. An organization will be regarded as operated exclusively for exempt purposes only if it engages primarily in activities which accomplish those exempt purposes. An organization does not operate exclusively for exempt purposes if more than an insubstantial part of its activities do not further exempt purposes. Section 1.501(c)(3)-1(c)(1) of the regulations. Also, see, Better Business Bureau v. United States, supra.

In P.L.L. Scholarship v. Commissioner, 82 T.C. (1984), an organization operated bingo at a bar for the avowed purpose of raising money for scholarships. The board included the bar owners, the bar's accountant, also a director of the bar, as well as two players. The board was self-perpetuating. The Court reasoned that since the bar owners controlled the organization and appointed the organization's directors, the activities of the organization could be used to the advantage of the bar owners. The organization claimed that it was independent because there was separate accounting

[REDACTED]

and no payments were going to the bar. The Court was not persuaded.

A realistic look at the operations of these two entities, however, shows that the activities of the taxpayer and the Pastime Lounge were so interrelated as to be functionally inseparable. Separate accountings of receipts and disbursements do not change that fact.

An organization is not operated exclusively for exempt purposes unless it serves a public rather than a private interest. An organization must establish that it does not operate for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly, by such private interests. Section 1.501(c)(3)-1(d)(1) of the regulations.

In your case, the facts submitted indicate that you are controlled by the business owners in the [REDACTED] health center that you lease from a third party. Your website and the minutes from your staff and board of directors' meetings provide evidence that you are primarily operated to increase your members' businesses. Similar to Rev. Rul. 77-111, supra, your overall thrust is to promote business as an end in itself rather than to accomplish exclusively 501(c)(3) purposes.

An exempt charity has the responsibility to use its income and assets primarily to further its charitable purposes. If a nonprofit organization allows a private party to control substantially all of the organization's activities or assets, e.g., if a private party has powers that enable it to control the flow of income or the disposition of assets owned by the charitable organization, it will violate the private benefit test of section 1.501(c)(3)-1(c)(1) of the regulations. In other words, a for-profit entity's ability to exert significant control over the operations of a nonprofit organization for the benefit of the for-profit entity will disqualify the nonprofit organization from exempt status. See, est of Hawaii v. Commissioner, supra. Regardless of the activities that will further your exempt purposes, as the Supreme Court noted in Better Business Bureau v. United States, a single nonexempt purpose, if substantial in nature, will destroy exemption.

In addition, you are operated in a manner similar to the organization in P.L.L. Scholarship, supra. You have at least one person on your board of directors who also operates a business in the building that you lease. According to your minutes, all of the business owners are also on your staff and may have input in how you are operated. Since your staff members control you and appoint your directors, your activities could be used to the advantage of your staff members. Therefore, you are not operated exclusively for charitable purposes under section 501(c)(3) of the Code because you serve private, rather than public interests.

In summary, you do not qualify for tax exemption as an organization described in

section 501(c)(3) of the Code. You must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the [REDACTED] Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
[REDACTED] T:EO:RA:T:4
1111 Constitution Ave, N.W.
Washington, D.C. 20224

[REDACTED]

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

(signed) [REDACTED]

[REDACTED]
Manager, Exempt Organizations
Technical Group 4